IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4166 OF 2007.

Pervez K.Raisi
(M/s.Topaz Res.Permit Room & Bar) ... Petitioner.
Versus.
The State of Maharashtra & others. ... Respondents.

Shri A.Joshi i/by Mrs.Veena Thadhani for the Petitioner.

Shri Nitin Deshpande, A.G.P. for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 8th June, 2007.

P.C.:

1. Heard the learned Advocate for the Petitioner and the learned A.G.P. for the State. The challenge in this writ petition under Article 227 of the Constitution of India is to an order dated 10th May 2007 passed by the Deputy Commissioner of Police by which licence/permit granted to the Petitioner has been ordered to be suspended for a period of 30 days.

2. When this writ petition came up before this Court on 6th June 2007, the learned A.G.P pointed out that under Rule 28(A) of the Rules for Keeping the Place of Public Entertainment in Greater Bombay, 1953 an Appeal is provided to the State Government against the order impugned in this writ petition. The learned Advocate for the Petitioner argued that it is a matter of common experience that the Appeals filed before the State Government are never heard expeditiously and even

stay applications are never taken up and decided expeditiously. Therefore, in large number of cases, writ petitions are required to be filed in this Court. On 6th June 2006, the learned A.G.P on instructions of the concerned Officer stated that if an appeal was preferred by the Petitioner against the impugned order on 7th June 2007, the Appellate Authority will hear the Application for stay in the Appeal at 12.00 noon on the same day and will thereafter pass appropriate order. Today the Advocate for the Petitioner brought to my notice that the Application for stay was heard by the Appellate Authority not at 12.00 noon, but in the later part of the day and no order has been passed on the said application for stay. The learned A.G.P. on instructions states that the matter is closed for orders and he is unable to tell the date on which order will be passed.

3. The impugned order of suspension is to apply for 30 days. The period of 30 days comes to an end on 9th June 2007. It is not in dispute that till today the impugned order has been implemented. As no order is passed on the Application for stay, the very remedy of preferring an Appeal will become otiose. Now an Appeal has been preferred by the Petitioner. Therefore, Writ Petition need not be kept pending. However, the operation of the order impugned in this writ petition

will have to be stayed for a period of one week. The Appellate Authority will have to be directed to decide the Application for stay and communicate the order to the Petitioner or his Advocate within a period of one week from today.

4. Hence the writ petition is disposed of by the following order:

(i) The Appellate Authority will pass appropriate order on the Application for stay and will communicate the same to the Petitioner or his Advocate within a period of one week from today.

(ii) For a period of one week from today, the operation and execution of the impugned order dated 10th May 2007 will remain stayed.

(iii) It is made clear that the Application for stay and the pending Appeal will be decided without being influenced by the limited ad-interim relief granted by this Court.

(iv) All contentions of the parties in the

pending Appeal are kept open.

(v) Writ petition is accordingly disposed of.

(vi) As it may not be possible to make available a copy of this order today, the learned A.G.P. will communicate this order to the concerned Authority. The learned A.G.P. states that the concerned Officers are present in Court and they are made aware of this order.

Judge.